

SENATE BILL 1546
By Kilby

AN ACT to amend Tennessee Code Annotated, Section 2-19-143; Section 40-20-112 and Title 40, Chapter 29, relative to restoration of rights.

WHEREAS, Tennessee has long provided that citizens who have been convicted of felonies could have their right to vote restored upon completion of their sentences; and

WHEREAS, Tennessee's current law contains at least three processes by which the right to vote can be restored; and

WHEREAS, a clear, concise and uniform method should be generally available for all persons who are not incarcerated; now, therefore,

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. This act shall be known and may be cited as "The Voting Rights Restoration Act".

SECTION 2. The purpose of this act is to amend and supplement current law by establishing a single procedure by which persons who have been convicted of a felony by a state or federal court may have their right to vote restored upon completion of their incarceration.

SECTION 3. Tennessee Code Annotated, Title 40, Chapter 29, is amended by adding the following as a new section thereto:

Section 40-29-107.

(a) All persons who, before the effective date of this act, have lost their right to vote due to their state or federal court conviction shall, upon the effective date of this act, automatically have their right to vote restored, provided that such persons are not incarcerated. However, a person who lost the right to vote by

virtue of being convicted of rape, treason, or voter fraud must comply with the procedures contained in 40-29-105 to restore his or her right to register and vote in this state.

(b) All persons who have been convicted of a felony shall upon their release from confinement in a correctional institution have the right to vote automatically restored. Upon release from confinement in a correctional institution the department of correction shall give the person a document certifying that the person has been released from such confinement. The department of correction shall also inform the person in writing that the person's right to vote has been restored. Upon release from confinement the person may register to vote. However, this section does not apply to a person convicted of rape, treason or voter fraud.

(c) The provisions of sections 2-2-139(a) and (b) do not apply to persons incarcerated due to a conviction in any state or federal court for any felony on or after July 1, 2005, if the person was not convicted of rape, treason or voter fraud.

SECTION 4. Tennessee Code Annotated, Section 40-29-105, is amended by adding a new subsection thereto, as follows:

(d) The following procedure shall apply to persons who are convicted of rape, treason or voter fraud on or after July 1, 2005:

(1) A person may seek restoration of his or her right to vote by petitioning the circuit court of the county where the person resides or where the conviction for rape, treason or voter fraud occurred.

(2)

(A) A person receiving a pardon that restores full rights of citizenship may petition for restoration of the right to vote immediately

upon receiving the pardon, provided that the pardon does not restrict the court's ability to restore the petitioner's right to vote.

(B) A person may petition for restoration of the right to vote upon the expiration of the maximum sentence imposed by the court for the crime.

(3) The petition shall set forth the basis for the petitioner's eligibility for restoration of the right to vote should and shall state the reasons the petitioner believes that petitioner's right to vote should be restored. The petition shall be accompanied by such certified records, statements and other documents or information as is necessary to demonstrate to the court that the petitioner is both eligible for and merits having his or her voting rights restored. The court may require such additional proof as it deems necessary to reach a just decision on the petition. There is a presumption that a petition filed pursuant to this section shall be granted and that the petitioner's right to vote shall be restored. This presumption may only be overcome upon proof by a preponderance of the evidence that either the petitioner is not eligible for restoration or there is otherwise good cause to deny the petition;

(4)

(A) Prior to acting on any petition filed pursuant to section, the court shall notify the district attorney general in whose county the petitioner resides and the district attorney general of the county in which the conviction occurred that a petition for restoration of the right to vote has been filed by the petitioner. Such notice shall be sent at least thirty (30) days prior to any hearing on or disposition of the petition. Each district attorney general so notified may object to the restoration of the petitioner's rights to vote either in person or in writing;

(B) If the petitioner lost his or her right to vote by judgment of a federal court, the circuit court shall give the notice required in subdivision (a)(4)(A) to the United States attorney and the district attorney general in whose district the petitioner is currently residing. Each such official shall have the same right to object to the petition as is provided in subdivision (a)(4)(A);

(5) If, upon the face of the petition or after conducting a hearing, the court finds that the petitioner's right to vote should be restored, it shall so order and send a copy of such order to the state coordinator of elections;

(6) All costs for a proceeding under this section to restore a person's right to vote shall be paid by the petitioner unless the court specifically orders otherwise; and

(7) Any person whose right to vote has been restored by order of the court pursuant to this section shall submit a certified copy of such order to the administrator of elections of the county in which such person is eligible to vote. The administrator of elections shall verify with the coordinator of elections that such an order was issued and, upon receiving such verification, shall issue the person a voter registration card entitling the person to vote.

SECTION 5. Tennessee Code Annotated, Section 40-20-112, is amended by deleting the first sentence in its entirety and by substituting instead the following:

Every person convicted of a felony and incarcerated in a correctional facility shall be immediately disqualified from exercising the right to vote. If the sentence imposed due to a felony conviction does not include incarceration, the person retains the right to vote, provided the person was not convicted of rape, treason or voter fraud.

SECTION 6. Tennessee Code Annotated, Section 2-19-143, is amended by adding the language ", or right to vote" after the words "rights of citizenship" and before the word "have" wherever it appears.

SECTION 7. This act shall take effect July 1, 2005, the public welfare requiring it.